IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No: 16679 of 2003

Between:

V. Seetarama Rao S/o.Narasaiah
R/o. Qtr.No. T295, Krishna Colony Road,
Bhoopalapalli Village & Mandal,
Warangal District.

..... PETITIONER

AND

The Singareni Collieries Company Ltd.,
(A Govt. Company) rep. by its Project Officer,
Bhupalapalli Village and Mandal Warangal District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ or direction preferably writ of mandamus declaring the recovery proceedings issued in Ref.No.BHYP/Per/28-B/469 dt : 5-3-2003 by the respondent is illegal, arbitrary and violative of principles of natural justice, and consequently direct the respondent not to recover the said amount as mentioned in the impugned proceedings from the petitioner.

Counsel for the Petitioner: MR.KOWTURU VINAYA KUMAR

Counsel for the Respondent: MR.K.SRINIVASA MURTHY

The Court made the following:

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ORDER:

This writ petition is filed seeking a declaration that the proceedings dated 05.03.2003 issued by the respondent, is arbitrary, illegal and violative of principles of natural justice.

It is contended by the learned counsel for the petitioner that the respondent has issued the impugned proceedings dated 05.03.2003 for recovery of a sum of Rs. 67,467-50 towards the penal rent for the quarters, which is in his occupation, without any prior notice to the petitioner. As per the directions of this Court, the present quarter relating to which the impugned proceedings are issued, was allotted to him and therefore he is not liable to pay any penal rent. Hence, he prays to set aside the impugned order or in alternative considering the net income of the petitioner, the quantum of penal rent may be reconsidered.

On the other hand learned counsel for the respondent contended that as per the directions of this Court, a committee was appointed and the petitioner was found to be in illegal occupation of the quarter since 1996, as he could not satisfy the conditions in the settlement which provide for regularization of quarters and the findings of the committee have become final. Therefore, the penal rent can be collected from the petitioner and there are no grounds to interfere with the impugned proceedings.

As seen from the impugned proceedings dated 05.03.2003, a committee has been constituted in pursuance of the directions of this Court in W.P.No.7434 of 1997 and the committee reviewed the case of the petitioner and it gave a report stating that the petitioner is not entitled for allotment of any quarters as he was in illegal occupation of quarters from 1996. Therefore, an amount of Rs. 67,467-50 towards the penal rent for the illegal occupation of the quarters shall be recovered from the petitioner in 36 monthly instalments commencing from 01.03.2003.

No doubt, the quarters, which was in the illegal occupation of the petitioner has been allotted to the petitioner as per his eligibility. But, it does not mean that the respondent cannot impose any penal rent, in view of fact that he was in illegal occupation of the quarter bearing NoT2.95, situated at Krishna Colony/BHEL from 09.07.1996 till the date of allotment. As per the settlement, the petitioner is bound to pay the penal rent.

A similar issue has come up for consideration before this Court in W.P.No.13103 of 2002 and it was dismissed on 31.10.2003. Against the said dismissal order, an appeal has been preferred in W.A.No. 1204 of 2004. The said writ appeal was disposed of directing the respondents therein to reexamine the case and fix the amount to be deducted from the salaries of the workmen therein.

Since the order under challenge does not suffer from any incurable infirmities, the same is not liable to be set aside. Insofar as the alternative argument of the counsel for the petitioner is concerned, it is for the respondent to take appropriate decision keeping in view the length of the service of the petitioner, the net income he is getting per month and duly taking note of the penal rent imposed.

Therefore, the writ petition is disposed of with a direction to the respondent to reexamine the case of the petitioner and fix the amount to be deducted from the salary of the petitioner keeping in view his length of service and the net salary he is getting per month. No costs.

13.06.2005

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To

1. The Project Officer, Singareni Collieries Company Ltd.,
(A Govt. Company)
Bhupalapalli Village and Mandal Warangal District.

2. 2 CD copies